

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA

CASE NO. 7:03CR00071

CASE NO. 7:03CR00101

CASE NO. 7:03CR00122

v.

2255 MEMORANDUM OPINION

JEROME D. BROWN,

By: James C. Turk
Senior United States District Judge

Petitioner Jerome D. Brown, a federal inmate proceeding pro se, has submitted to the court this motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255. Upon review of the record, the court concludes that the action must be dismissed as successive.¹

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h). Court records indicate that petitioner has previously filed a § 2255 motion, Civil Action No. 7:05cv00386, regarding the same convictions and/or sentences. Thus, petitioner's current § 2255 motion is a second or subsequent one under § 2255(h). As petitioner has not submitted any evidence of having obtained certification from the United States Court of Appeals for the Fourth Circuit to file a second or successive § 2255 motion, the court must dismiss the action without prejudice. An appropriate order will issue this day.

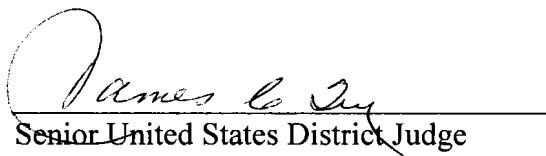
Petitioner is hereby advised of the procedure for obtaining certification from the United

¹Petitioner styled this action as a "MOTION REQUESTING RE-ENTERING JUDGMENT ORDER." The court construed the motion as one arising under § 2255 and ordered petitioner to inform the court within ten (10) days if he did not wish to pursue the motion as a § 2255. The allotted time has elapsed with no response on this issue from petitioner. Accordingly, the court will address his motion as a § 2255, which must be dismissed as successive.

States Court of Appeals for the Fourth Circuit to have this court review a successive § 2255 motion. Petitioner must submit a copy of the successive § 2255 motion to the United States Court of Appeals for the Fourth Circuit, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. See 28 U.S.C. § 2244 (as amended, 1996). A United States Court of Appeals for the Fourth Circuit form and instructions for filing this motion will be included with this notice or are available from the United States Court of Appeals for the Fourth Circuit at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.

The Clerk is directed to send copies of this Memorandum Opinion and the accompanying Order to petitioner and to counsel of record for respondent.

ENTER: This 27th day of May, 2008.



James C. Day
Senior United States District Judge